

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

**COMPLAINT AGAINST:**

**Hon. Steven R. Servaas**

63<sup>rd</sup> District Court  
105 Maple Street  
Rockford, MI 49341

Formal Complaint No. 84

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James S. Brady (P11110)  
Jon R. Muth (P18138)  
D. Andrew Portinga (P55804)  
Miller Johnson  
Attorneys for Hon. Steven R. Servaas  
P.O. Box 306  
Grand Rapids, MI 49501-0306  
(616) 831-1700

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**ANSWER TO COMPLAINT**

Honorable Steven R. Servaas (“Respondent”) answers the Complaint of the Michigan Judicial Tenure Commission as follows:

1. Respondent was elected a judge of the 63<sup>rd</sup> District Court — Division 1, in Rockford, Michigan.

**ANSWER: Admitted.**

2. As a judge, Respondent is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

**ANSWER: Admitted.**

**COUNT I**

**VACATING JUDICIAL OFFICE BY FAILING TO RESIDE  
IN ELECTION DIVISION OF JUDICIAL DISTRICT**

3. The 63<sup>rd</sup> District Court, Kent County, is divided into two divisions. Respondent was elected to the 63<sup>rd</sup> District Court — 1<sup>st</sup> Division in Rockford, Michigan.

**ANSWER: Admitted.**

4. The first division of the 63<sup>rd</sup> District Court consists of the cities of Cedar Springs and Rockford, and the townships of Tyron, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Cannon, Plainfield, Gratton, Casnovia Village, and Lake and Kent City and “has 1 judge.” MCL 600.8130(4)(a).

**ANSWER: Admitted that MCL 600.8130(4)(a) states:**

**The first division consists of the cities of Cedar Springs and Rockford and the townships of Tyrone, Solon, Nelson, Spencer, Sparta, Algoma, Courtland, Oakfield, Alpine, Plainfield, Cannon and Grattan and has 1 judge.**

5. The 63<sup>rd</sup> District Court — 1<sup>st</sup> Division, does *not* encompass the township of Ada, which falls under the second division of the 63<sup>rd</sup> District Court.

**ANSWER: Admitted.**

6. Hon. Sara J. Smolenski, Chief Judge of the 63<sup>rd</sup> District Court, was elected to the 63<sup>rd</sup> District Court — 2nd Division, in Cascade Township, Michigan.

**ANSWER: Admitted only that Hon. Sara J. Smolenski is the Chief Judge of the 63<sup>rd</sup> District Court and was elected to the 2<sup>nd</sup> Division. The Second Division consists of more than Cascade Township.**

7. The second division of the 63<sup>rd</sup> District Court consists of the township of Ada, as well as the cities of E. Grand Rapids and Lowell, and the townships of Grand Rapids, Cascade, Vergennes, Lowell, Bryon, Gaines, Caledonia and Bowne, and “has 1 judge.” MCL 600.8130(4)(b).

**ANSWER: Admitted that MCL 600.8130(4)(b) states:**

**The second division consists of the cities of East Grand Rapids and Lowell and the townships of Grand Rapids, Ada, Vergennes, Cascade, Lowell, Byron, Gaines, Caledonia and Bowne and has 1 judge.**

8. Pursuant to MCL 600.8201, a judge of the district court shall be licensed to practice law in this state and shall be a registered elector *of the district and election division* in which he seeks and holds office.

**ANSWER:** Admitted that MCL 600.8201 states:

A candidate for and a judge of the district court shall be licensed to practice law in this state and shall be a registered elector of the district and election division in which he seeks and holds office. Except in any district or election division in which there is a vacancy and in which a registered elector qualified to practice law in this state has not filed nominating petitions by the filing deadline for the primary election, a registered elector of an adjoining district or election division within the district who is qualified to practice law in this state shall be eligible for the office of district judge by filing nominating petitions signed by the required number of qualified electors of the district or election division in which he seeks election within 5 days after such deadline.

9. The Michigan Constitution provides: “**Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected or appointed, he shall have vacated his office.**” Const 1963, art. 6 §20 (emphasis supplied).

**ANSWER:** Admitted that Const 1963, art. 6, § 20 states:

**Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected or appointed, he shall have vacated his office.**

10. Respondent claims he is a registered elector within the areas defined as the 63 — 1 district court because he has registered to vote on Belding Road in Cannon Township.

**ANSWER:** Admitted that Respondent claimed that he was a registered elector within the 1<sup>st</sup> Division of the 63<sup>rd</sup> District because he was registered to vote on Belding Road in Cannon Township. By way of further answer, Respondent is currently a registered elector within the 1<sup>st</sup> Division of the 63<sup>rd</sup> District because he is registered to vote with the Courtland Township clerk due to his primary residence on Shaner Road in Rockford.

11. Respondent also maintains a home at 201 Honey Creek Avenue NE in Ada Township, which is outside of the areas defined as the first division of the 63<sup>rd</sup> District Court.

**ANSWER:** Admitted. By way of further answer, Respondent purchased the Honey Creek Avenue property, as well as properties in South Carolina and Florida, and on Bostwick Lake and Big Whitefish Lake in Michigan, as part of an investment portfolio and consistent with his outside interest to remodel and renovate properties.

12. On January 13, 2006, Respondent executed an affidavit declaring that the property he owns at 201 Honey Creek Ave NE, Ada Township, Kent County, 49301, became his principal residence on December 31, 2005, and that he rescinded the principal residence exemption he had previously claimed as his principal residence.

**ANSWER:** Admitted.

13. Respondent lists his driver information with the Secretary of State using the Belding address, even though he resides in Ada Township. Moreover, he uses the courthouse address as his mailing address for the Secretary of State.

**ANSWER:** Admitted that Respondent listed his driver information with the Secretary of State using his Belding Road address as his residence address and the courthouse address as his mailing address. By way of further answer, Respondent now lists his driver information with the Secretary of State using his Shaner Road address.

14. Respondent lists his voter registration with the Cannon Township Clerk, contending that he is a qualified elector at the Belding address, even though he is actually a qualified elector at the Honey Creek address in Ada Township. Moreover, he uses the courthouse address as his mailing address for the Township Clerk's office.

**ANSWER:** Admitted that Respondent was registered to vote based on his ownership of a home at the Belding Road address and that Respondent received mail at the courthouse. By way of further answer, Respondent now lists his voter registration with the Courtland Township clerk based on his primary residence at Shaner Road in Rockford.

15. Respondent resides in the Ada Township home, not in the home he owns on Belding Road in Cannon Township.

**ANSWER:** Denied as untrue.

16. The conduct described in paragraphs 1 — 14, if true, may constitute:

- a. Vacating or abandoning his judicial seat;
- b. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- c. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- d. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct (“MCJC”), Canon 1;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- f. Failure to respect and observe the law and to conduct oneself at all times in a manner which would enhance the public’s confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- g. Allowing family, social, or other relationships to influence judicial conduct or judgment, in violation of MCJC, Canon 2C;
- h. Lack of personal responsibility for one’s own behavior and for the proper conduct and administration of the court in which one presides, contrary to MCR 9.205(A);
- i. Failing to comply with constitutional and statutory and residency requirements to hold a judicial seat;
- j. Filing a false or fraudulent affidavit claiming an exemption, or making a false statement in such an affidavit, a one-year misdemeanor. MCL 211.120(1);
- k. Committing perjury by knowingly swearing to the affidavit or false statement, a one-year misdemeanor in this case. MCL 211.120(2);

- l. Falsely reporting a change of address to the Secretary of State, a misdemeanor, MCL 257.315(4);
- m. Making a false statement regarding his residence on his application to register to vote, a misdemeanor, MCL 168.499(1);
- n. Conduct prejudicial to the administration of justice, in violation of to MCR 9.104(1);
- o. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- p. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- q. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

**ANSWER:** Denied as untrue.

## **COUNT II**

### **FAILURE TO COMPLY WITH STATUTORY NOTIFICATION REQUIREMENTS**

17. Respondent's current driver's license improperly reflects an address on 8631 Belding Road, in Rockford, rather than his admitted primary residence in Ada, Michigan.

**ANSWER:** Admitted only that Respondent's driver's license reflected an address of 8631 Belding Road in Rockford. Denied that this was improper. By way of further answer, Respondent's driver's license currently reflects an address of Shaner Road in Rockford.

18. Respondent has failed to comply with the statutory requirement that he *immediately* notify the Secretary of State of his or her new residence address to change his driver's license information, pursuant to MCL 257.315(1), constituting a civil infraction. MCL 257.315(3).

**ANSWER:** Respondent admits only that he failed to immediately notify the Secretary of State of his Honey Creek address, but further states that he has corrected the situation by immediately notifying the Secretary of State of his new Shaner Road address. Whether Respondent's conduct constitutes a civil infraction is a legal question to which no response is required.

19. Respondent also failed to comply with the statutory requirement that he change his voter's registration, pursuant to MCL 168.507(1), which provides:

**A registered elector who has removed from 1 election precinct of a township, city, or village to another election precinct of the same township, city or village and has not recorded the removal with the local clerk shall execute a transfer of registration request, listing the new residence address over his or her signature, with the election board in the precinct in which he or she is registered at the next ensuing primary or election. (emphasis supplied)**

**ANSWER: These allegations contain legal conclusions to which no response is required. To the extent that a response is required, Respondent neither admits nor denies the allegations but leaves Petitioner to its proofs.**

20. The conduct described in paragraphs 16 — 18, if true, may constitute:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct ("MCJC"), Canon 1;
- d. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of MCJC, Canon 2A;
- e. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to MCJC, Canon 2B;
- f. Conduct prejudicial to the administration of justice, in violation of to MCR 9.1040);
- g. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);

- h. Conduct contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- i. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

**ANSWER:** Denied as untrue.

### **COUNT III**

#### **RUDE AND SEXUALLY INAPPROPRIATE COMMENTS AND CONDUCT**

20.[sic] Respondent makes inappropriate comments, uses offensive language and engages in inappropriate conduct of a sexual nature directed toward female court employees, as reflected in part by the following examples.

**ANSWER:** Denied.

21. Around noon on Friday, November 30, 2007, Respondent showed up at the 2<sup>nd</sup> Division of the 63<sup>rd</sup> District Court in Cascade Township for a retirement party for a court staff member. While there, he approached a group of four women, three from the 2<sup>nd</sup> division (Cascade) of the court and one from the 1<sup>st</sup> division (Rockford) of the court.

**ANSWER:** Admitted.

22. The Cascade staff were dressed in casual clothes, as they have “casual Fridays,” where they can dress casually if they donate to a particular charity.

**ANSWER:** Admitted.

23. The Rockford court staff member asked Respondent whether the staff at Rockford could also have casual Fridays.

**ANSWER:** Admitted.

24. Respondent responded that the staff already all dress “like slobs.”

**ANSWER:** Denied. Judge Servaas admits making a comment about the Rockford staff having poor taste. This statement was made in jest and at a social function.



25. Upon hearing that, one of the Cascade Township court employees looked up.

**ANSWER:** Judge Servaas lacks knowledge or information sufficient to form a belief as to the truth of this allegation.

26. Respondent then asked what was written on her sweatshirt.

**ANSWER:** Denied. Judge Servaas did not ask her what was on her sweatshirt. Rather, Ms. Andrus, who is thin, stretched her shirt out and said, "Go Blue."

27. The female court employee was wearing a "Michigan sweatshirt" (blue with maize writing, and the word "Michigan" written across the front). She replied, "Go Blue!"

**ANSWER:** Admitted that Ms. Andrus said "Go Blue." See above.

28. Respondent then said that with a chest like hers, she should have chosen a smaller school, like "Alma," to wear on her shirt, because maybe then she could fill the shirt up.

**ANSWER:** Denied as untrue. Judge Servaas stated that, if someone was going to wear a shirt with a big name like "Michigan," she needed a bigger chest, or she needed a school with a smaller name, like Alma. Everyone laughed, except Ms. Andrus. This statement was made at a social function and was intended as a joke. No harm was intended by the statement. While Judge Servaas regrets any offense taken at the comment, he notes that the comment is not sexual harassment; i.e., there was no *quid pro quo* sought or implied by the comment, nor did it affect Ms. Andrus's employment in any way.

29. Respondent acknowledged his wrongful conduct by remarking that he should leave before he "got into trouble" or "got sued."

**ANSWER:** Admitted.

30. Respondent left a telephone message apology for that employee a few days later, on December 4, 2007, after another Cascade staff member told him he had gone too far, in which he admitted the "crude attempt at humor" and that he should not have said what he did.

**ANSWER:** Denied as written. In further answer, Judge Servaas states that a few days after the party, his court reporter stated that Ms. Andrus may have been offended by the

comment. Judge Servaas then attempted to call the individual to apologize for his comment. Ms. Andrus would not take his call. He then left an apology on her voicemail.

31. Respondent also “doodles” pornographic scribbles on court files or on “little yellow stickies” or post-it notes he attaches to the files.

**ANSWER:** Denied as untrue.

32. In one such recent instance, on August 22, 2007, Respondent drew a picture of the male sexual organ on a post-it note with the notation, “See 2<sup>nd</sup> file” and gave it to a female court employee. A copy of Respondent’s drawing is attached.

**ANSWER:** Denied as untrue.

33. On other occasions, Respondent has given the female employees such notes with female breasts drawn on them.

**ANSWER:** Denied as untrue. In further answer, Respondent assumes that this allegation relates to incident a female appeared in court wearing inappropriate dress. The individual was large-breasted and wearing revealing clothing. When the individual walked into the Court, one of the female court staff members sent the Respondent a note, commenting on the inappropriate dress of the individual. When Respondent sent the court file back to the staff member, he sent it back with a note, which had a drawing of breasts on them. The note was a private note, and was intended to be a joke.

34. The conduct described in paragraphs 20 — 33, if true, may constitute:

- a. Misconduct in office as defined by the Michigan Constitution of 1963, as amended, Article VI, §30 and MCR 9.205;
- b. Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article VI, §30, and MCR 9.205;
- c. Lack of personal responsibility for one’s own behavior and for the proper conduct and administration of the court in which one presides, contrary to MCR 9.205(A);
- d. Persistent failure to treat persons courteously, contrary to MCR 9.205(B)(1)(c);

- e. Treatment of a person unfairly or discourteously because of the person's race, gender or other protected personal characteristic, contrary to MCR 9.205(B)(1)(d);
- f. Failure to personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Michigan Code of Judicial Conduct ("MCJC"), Canon 1;
- g. Failure to avoid impropriety and the appearance of impropriety in all activities and engaging in irresponsible and improper conduct, thereby eroding public confidence in the judiciary, contrary to MCJC, Canon 2A;
- h. Failure to respect and observe the law and to conduct yourself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, as required by MCJC, Canon 2B;
- i. Failure to treat every person with courtesy and respect, without regard to race, gender, or other protected personal characteristic, as required by MCJC, Canon 2B,
- j. Allowing family, social, or other relationships to influence judicial conduct or judgment, contrary to MCJC, Canon 2C;
- k. Failure to be patient, dignified, and courteous to those with whom you deal in an official capacity, in violation of MJC, Canon 3A(3);
- l. Conduct prejudicial to the administration of justice, in violation of MCR 9.104(1);
- m. Conduct violating the Elliot-Larsen Civil Rights Act (M.C.L.A. 37.2101 *et seq.*);
- n. Creation of a hostile work environment;
- o. Conduct that exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
- p. Conduct contrary to justice ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and
- q. Conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

**ANSWER: Denied as untrue.**

### **AFFIRMATIVE AND OTHER DEFENSES**

1. The 63<sup>rd</sup> District court is one district, with two divisions. The fact that it has two divisions does not make it two districts. The provisions for election divisions of a judicial district have no effect on the administration of a judicial district. *See* MCL 600.8102. Judge Servaas's residence at 201 Honey Creek in Ada is within the 63<sup>rd</sup> District.

2. The territory from which Judge Servaas is elected is the 63<sup>rd</sup> District. *See* MCL 600.8102 ("The provisions for election divisions of a judicial district have no effect on the administration of a judicial district."). Judge Servaas has not removed his domicile from the territory from which he was elected.

3. Although the Legislature has enacted statutes that state that a judge of the Court of Appeals, Circuit Court, and Probate Court vacate their seat if they move out of their district, the Legislature did not enact a similar statute for district court judges. *Compare* MCL 168.409j and MCL 168.422 *with* MCL 468.467l. As a result, a district court judgeship does not become vacant if the judge moves out of his district.

4. In fact, the Legislature has explicitly provided that a candidate from outside a district may be elected to a district court judgeship, in certain circumstances. *See* MCL 600.8201.

5. Judge Servaas has always maintained a home in the 1<sup>st</sup> Division of the 63<sup>rd</sup> District Court and has always been a registered elector of the first division. Thus, he has always satisfied the requirements of MCL 600.8201.

6. Between February 21 and 23, 2008, Judge Servaas moved to 10175 Shaner Road, N.E., Rockford, Michigan 49341 (Exhibit A). On February 22, 2008, he also rescinded his Homestead Affidavit for 201 Honey Creek in Ada (Exhibit B). Currently, Judge Servaas's principal residence is 10175 Shaner Road, N.E., Rockford, Michigan

49341, which is within the 1<sup>st</sup> Division of the 63<sup>rd</sup> District Court. The residency issue, therefore, is moot.

7. On February 21, 2008, Judge Servaas changed his registration and his driver's license to reflect his current address of 10175 Shaner Road, N.E., Rockford, Michigan 49341 (Exhibit A).

8. Providing the Secretary of State with a mailing address separate from one's residence address is allowed by MCL 257.315(1).

9. In any event, living outside an election division is not judicial misconduct, is not grounds for discipline, and certainly is not grounds for removal from the bench.

10. Likewise, a civil infraction, if one occurred, is not judicial misconduct, is not grounds for discipline, and is not grounds for removal from the bench.

11. Respondent's comment at the office party does not constitute sexual harassment. There was no quid pro quo express or implied, and no one's employment was affected.

12. No court employee has ever formally or informally accused Respondent of sexual harassment.

13. The allegations regarding Judge Servaas' comment at the office party and the allegations regarding the doodles do not constitute judicial misconduct, are not grounds for discipline, and are not grounds for removal from the bench.

14. Respondent reserves the right to add additional affirmative defenses.

Respectfully submitted,

MILLER JOHNSON  
Attorneys for Respondent

Dated: February 27, 2008

By James S. Brady  
James S. Brady (P11110)  
Jon R. Muth (P18138)  
D. Andrew Portinga (P55804)

Business Address:  
250 Monroe Avenue, N.W., Suite 800  
PO Box 306  
Grand Rapids, Michigan 49501-0306  
Telephone: (616) 831-1700

**VERIFICATION**

I verify that the answers to the foregoing allegations are true and correct.

Dated: February 27, 2008

Steven R. Servaas  
Hon. Steven R. Servaas

Subscribed and sworn to before me  
this 27<sup>th</sup> day of February, 2008

Susan Smrekar  
Notary Public, Kent County, MI

Susan Smrekar  
Notary Public  
Kent County, MI  
My Commission Expires  
August 7, 2012  
Acting in: Kent